



NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

[NRC-2023-0171]

Draft Regulatory Guide: Physical Security Event Notifications, Reports, and Records

AGENCY: Nuclear Regulatory Commission

ACTION: Draft guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft Regulatory Guide (DG), DG-5080, "Physical Security Event Notifications, Reports, and Records." This DG-5080 is a limited-scope proposed Revision 3 of Regulatory Guide (RG) 5.62 of the same name. This DG provides an approach acceptable to the NRC staff for licensees to use for reporting and recording of security events and conditions adverse to security under NRC regulations, "Physical Protection of Plants and Materials."

DATES: Submit comments by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the **Federal rulemaking website**:

- **Federal rulemaking website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2023-0171**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the "For Further Information Contact" section of this document.

- **Mail comments to:** Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Phil Brochman, Office of Nuclear Security and Incident Response, telephone: 301-287-3691; email: Phil.Brochman@nrc.gov, or Stanley Gardocki, Office of Nuclear Regulatory Research, telephone: 301-415-1067; email: Stanley.Gardocki@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID **NRC-2023-0171** when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2023-0171**.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. DG- 5080, “Physical Security Event Notifications, Reports, and Records,” and its associated regulatory analysis are available in ADAMS under Accession No. ML23198A191 and ML23200A284, respectively.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID **NRC-2023-0171** in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's "Regulatory Guide" series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

The DG, entitled "Physical Security Event Notifications, Reports, and Records," is temporarily identified by its task number, DG-5080.

Proposed Revision 3 to RG 5.62 is being revised on a limited-scope basis to provide additional guidance on physical security event notifications, written follow-up reports, and recordkeeping of security events and other conditions adverse to security. These new and updated requirements are part of the NRC's final rule, entitled "Enhanced Weapons, Firearms Background Checks, and Security Event Notifications" (hereafter the Enhanced Weapons rule), that was published in the *Federal Register* on March 14, 2023 (88 FR 15864). These provisions are found in the NRC's regulations under § 73.1200 of title 10 of the *Code of Federal Regulations*, specifically, 10 CFR 73.1205, and 10 CFR 73.1210.

Following the publication of the final rule and RG 5.62, the NRC staff conducted several pre-implementation workshops with licensees. The NRC staff also participated in industry-led forums and symposiums in May and June 2023. In these meetings industry raised questions about RG 5.62 and identified potential inconsistencies and areas where additional clarification would be beneficial to licensees to implement the Enhanced Weapons rule effectively and efficiently. The NRC staff has reviewed the issues raised by industry and agrees that further clarification, revision, and supplementation of the guidance contained in RG 5.62 will be of value. Accordingly, the NRC staff is proposing to conduct limited-scope revisions to RG 5.62 to address these issues, including providing notice and opportunity for public comment on the proposed revisions.

To assist with stakeholder review of the limited scope changes to DG-5080, staff notes the following changes have been proposed:

Section B, "Discussion" Topics

- "Reason for Revision" – updated to reflect rationale for changes to the RG.
- "Establishment of a Communications Channel with the NRC" – updated to clarify agency requirements for establishing a communications channel with the NRC.

Section C, "Staff Regulatory Guidance"

- Position 2.1, “Malevolent Intent Considerations”– added to clarify the use of malevolent intent as a screening consideration for evaluating whether an event is reportable or recordable.
- Position 2.2, “Credible Bomb Threat Considerations” – added to separately clarify the distinctions in reporting expectations for bomb threats.
- Position 7.1, “15-Minute Facility Notifications,” example 4 – clarified the location of concern regarding the discovery of unauthorized explosives or incendiary materials that would trigger a 15-minute event notification.
- Position 8.1, “1-Hour Facility Notifications,” example 8 – clarified a licensee’s potential use of malevolent intent as a screening factor for determining reportability under this event. Also, clarified threshold for theft or diversion event notification.
- Position 9.1, “4-Hour Facility Notifications,” example 3, paragraph 3 and Note – clarified how the term “time of discovery” applies to the timeliness requirements in reporting under this event.
- Position 9.1, “4-Hour Facility Notification,” example 3, paragraph 5 – addressed potential duplications of notifications under this event.
- Position 18.2, “Recordable Events and Conditions Regarding Decreases in Effectiveness,” example 6 – addition of controlled access area to existing example.
- Position 18.2, “Recordable Events and Conditions Regarding Decreases in Effectiveness,” example 9 – added example regarding the actual or attempted introduction of contraband where a licensee assessed that no malevolent intent was present.

The staff is also issuing for public comment a regulatory analysis (ADAMS Accession No. ML23200A284). The staff developed a regulatory analysis to assess the value of issuing or revising an RG, as well as alternative courses of action.

As noted in the *Federal Register* on December 9, 2022 (87 FR 75671), this document is being published in the “Proposed Rules” section of the *Federal Register* to comply with publication requirements under 1 CFR chapter I.

III. Backfitting, Forward Fitting, and Issue Finality

Issuance of DG-5080 as a final RG would not constitute backfitting as that term is defined in 10 CFR 50.109, “Backfitting,” 10 CFR 70.76, “Backfitting,” or 10 CFR 72.62, “Backfitting”; and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests,” to affect the issue finality of an approval issued under 10 CFR part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants;” or constitutes forward fitting as that term is defined and described in MD 8.4 because reporting requirements are not included within the scope of the NRC’s backfitting or issue finality rules or forward fitting policy,

IV. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC’s public website at <https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>. Suggestions will be considered in future updates and enhancements to the “Regulatory Guide” series.

Dated: October 24, 2023.

For the Nuclear Regulatory Commission

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